

THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re the Patent Application of: MAX ABECASSIS

SERIAL NO: 07/832,335

FILED 02/07/92

FOR : VARIABLE CONTENT VIDEO EDITING SYSTEM (Amended)

ART UNIT : 2615

EXAMINER : KHOI D. TRUONG

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AMENDED APPEAL BRIEF

October 15, 1996

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

Responsive to the Notification of Non-Compliance with 37 CFR 1.192(c), dated 09/30/96, appellant hereby submits this amended appeal brief to the Honorable Board of Patent Appeals and Interferences in connection with an appeal of a decision, dated 09/08/95, paper number 24, of the Examiner finally rejecting claims 73-76.

The requisite fee of \$145.00 for submitting an appeal brief was included with the previously filed brief. The Notice of Appeal from the Decision of the Examiner to the Board of Patent Appeals and Interferences and requisite fee were previously submitted. The application is on behalf of a small entity. A verified Statement was previously filed.

(1) Real Party in Interest.

Max Abecassis, appellant, is the party in interest.

This is a pro se case. This appeal brief was prepared by appellant on his own behalf. Appellant is neither an attorney,

nor a registered agent, nor has appellant received the benefit of formal training in the prosecution of patent applications. Appellant apologizes to the Examiner and the Honorable Board for any errors or misinterpretations that may be contained herein.

(2) Related Appeals and Interferences.

The general subject matter of the instant application is related to appellant's pending applications Serial Number 08/303,158, filed 09/08/94, and Serial Number 08/419,822, filed 04/11/95, now under appeal to the Honorable Board of Patent Appeals and Interferences.

This information is provided for the Honorable Board to determine what bearing if any it may have on the Honorable Board's decisions.

(3) Status of Claims.

Claims 1-42 were originally presented in the specification.

A restriction requirement, dated 06/15/93, paper number 9, required restriction to one of four inventions.

In response to the restriction requirement and a communication, dated 10/06/93, Paper No. 13, appellant elected claims 1-11 and 39-42 to be examined, canceled claims 9-38, and added new claims 43-72.

A first Office Action, dated 11/17/94, paper number 19, withdrew claims 50-71 from consideration and rejected claims 1-8, 39-49, and 72.

In response to the first Office Action, appellant canceled claims 1-8, 39-49, and 72, and added new claims 73-76.

A final Office Action, dated 09/08/95, paper number 24, rejected claims 73-76.

Claims 73-76, as originally submitted, are appealed from the rejection.

(4) Status of Amendments After Final.

An amendment after the final Office Action has not been submitted.

(5) Summary of Invention.

The outstanding claims of the present invention are generally drawn to a video editing system for, and a method of, editing a video comprising: i) defining, responsive to at least one preestablished content category, a plurality of segments in a video; ii) associating at least one descriptor with at least one segment of the plurality of segments, the at least one descriptor being responsive to the at least one preestablished content category; and iii) producing a segment map that provides for a variable arrangement of the plurality of segments.

The specification summarizes, with respect to FIG. 2, the three most significant features (segments defined, descriptors assigned, and map produced) of the outstanding claims:

"The beginning frame and end frame in each of the relevant segments is identified, the segment content is assigned a descriptor as per the category and rating structure, and logical entry and exit references are assigned 470." (page 18, lines 23-27)

"The resulting segment information is mapped and the required user interface produced 480 to permit the viewer, by selecting the desired rating level in each of the categories, to view a unique continuous sequence of segments consistent with the designated viewer preference structure." (page 19, lines 7-11)

As is explained in the specification:

"Any number of segments that may comprise a program may be logically organized by means of the programs segment map."
(page 14, lines 4-6)

It is the segment map's logical organization of the segments of a video that, as is recited in each of the claims, that "provides for a variable arrangement of said plurality of segments."

As is detailed with respect to FIG. 3:

"To provide for the option of editing-out the explicit bloodshed, the program content map includes an additional segment definition beginning at frame 4112 and ending at frame 5205. The end of this segment 512 is linked to a new transitional segment 513 beginning at frame 35205 and ending at 35350, the end of which is linked to frame 6027."... "For programs produced prior to the present invention, the editing-out would work in a like manner except that the transitional segment 513 would not be available to make the continuous transmission from frame 5206 to 6027 transparent."
(page 20, lines 5-20)

A DigitalVideo player, as per appellant's specification, utilizes a segment map, produced by the system or method of the outstanding claims, to seamlessly skip a retrieval of a segment:

"Referring now to FIG. 5, the video disk player of the present invention enhances existing readily available video disk player unit 601 and random access technology 602 by including video buffers 612 of sufficient size to permit random positioning of the head (measured in microseconds) to retrieve subsequent frame information from the videodisc without altering the transmission of the required frames per second to provide a transparently continuous video signal transmission to the monitor." (page 23, lines 1-9)

Thus, in the playing of an off-the-shelf DigitalVideo motion picture "The Hunt for Red October" for a child, the DigitalVideo player utilizes a segment map, that provides for a variable arrangement of the plurality of segments of the motion picture,

to seamlessly skip the retrieval of a segment containing graphic violence. The segment of graphic violence begins at approximately 19 minutes 27 seconds and ends at 19 minutes 50 seconds. In this case, the variable retrieval of the segments results in the playing of a continuous version shown the child that is 23 seconds shorter than the version played for an adult viewer who does not object to the viewing of graphic violence.

(6) Issues.

Whether claims 73-76 are unpatentable under 35 U.S.C. § 102(b) as being anticipated by Olivo, Jr., U.S. Patent No. 5,172,111 ("Olivo").

(7) Grouping of Claims.

The claims do not stand or fall together as each defines the invention with a different degree of specificity and with a different degree of structural or methodological implementation.

(8) Argument.

It is respectfully submitted that the rejection of each of the claims 73-76 under 35 U.S.C. § 102(b) as being anticipated by Olivo is unwarranted and should be reversed.

As will be detailed below, appellant respectfully submits that a reasoned comparison of the teachings of Olivo with the teachings of the specification of the present invention will not only conclude that Olivo does not anticipate or render obvious appellant's invention or the subject matter to which the outstanding claims are drawn, but also that Olivo neither anticipates nor renders obvious each of the outstanding claims.

In Olivo:

"A program material screening device is provided whereby the owner/operator of a program material playback device such as a videocassette player, television, laser disc player, motion picture projector, phonograph or the like may automatically and selectively prevent the reproduction into humanly perceivable form of unwanted program material. The screening device is capable of recognizing non-interfering material content signals stored along with the program signals that are reproduced by the program material playback device, and is capable of automatically disabling the playback device in response to the recognition of the material content signal." (Abstract)

A reader familiar with video screening technologies will appreciate that Olivo's improvements, over the widely publicized V-chip, relate to addressing the gap caused by preventing the reproduction of unwanted program material.

Olivo recites that:

"The method of the present invention is carried out by supplementing stored program material with a non-interfering material content signal..." "The material content signal includes information relating to the content of the program material it corresponds to. For instance, the material content signal may provide only the Motion Picture Association of America (MPAA) rating (i.e., R, PG-13, PG or G) and/or the so called "X" rating for a movie recorded on videotape or film. Alternatively, the material content signal can include complex information relating to the program content of particular scenes of the program material, thus enabling the scenes (or even individual frames) of a movie to be rated on a scene-by-scene (or frame-by-frame) basis..." "In particular embodiments of this invention, detection of the material content signal will lead during playback to the substitution of highly rated scenes (e.g., X) with lower rated scenes (e.g., R or PG-13)." (column 3, lines 16-44 emphasis added)

With respect to altering the replay of the program material signal in general, and the substitution of scenes in particular, Olivo explicitly teaches a:

"stationary on-screen display (such as a sign proclaiming 'PROGRAM BLOCKED'), a prerecorded message (such as a short

video program instructing the viewer on the nature of the program), or, preferably, a series of alternative scenes, corresponding to the program material in context but of a more acceptable (to the owner/operator) content, which are substituted and synchronized with the program material so as to provide what appears to be an uninterrupted program output." (column 7, lines 45-54, also column 14, beginning at line 14, emphasis added.)

As is clearly illustrated in FIG. 5, Olivo's means and methodology of retrieving "material content signals stored along with the program signals", requires retrieving the alternative scenes from a synchronized alternate program source.

"Video switch (306) passes one of three inputs (60, 301 or 302) onto the television (output) monitor via lines 308 and 312, via a bypass switch (310). Line 60 carries the normal video program material output from the videotape (58 in FIG. 3). Line 301 carries the video output from character generator 350"... "Line 302 carries the video output of an alternate program source (APS) (360). The APS (360) can be a second videotape player" (Column 14, lines 14-32)

"an alternate program source (360) can consist of a separate pick-up head scanning another part of the disk simultaneously with the main pick-up head, and would supply input line 302 as called upon via bus 74B bits D2-D7." (column 17, lines 1-5, emphasis added)

It is respectfully submitted that if Olivo anticipated producing "a segment map that provides for a variable arrangement of said plurality of segments" of a video, as is recited in each of the outstanding claims, the screening device of Olivo would not require a "stationary on-screen display", "a prerecorded message", or "a series of alternative scenes", retrieved from "an alternate program source", "which are substituted and synchronized with the program material".

If Olivo anticipated producing "a segment map that provides for a variable arrangement of said plurality of segments" of a

video, as is recited in each of the outstanding claims, the screening device of Olivo would not require, as is detailed with respect to FIG. 5, a "Video switch (306) passes one of three inputs (60, 301 or 302) onto the television (output) monitor via lines 308 and 312, via a bypass switch (310)."

If Olivo anticipated producing "a segment map that provides for a variable arrangement of said plurality of segments" of a video, as is recited in each of the outstanding claims, the screening device of Olivo would not require means for retrieving alternative scenes from an "alternate program source" such as "a separate pick-up head scanning another part of the disk simultaneously with the main pick-up head".

Olivo teaches away from producing "a segment map that provides for a variable arrangement of said plurality of segments", as is recited in each of the outstanding claims of the present invention.

Further, with all due respect for Olivo's contributions, Olivo fails to recognize that there seldom are "alternative scenes" which may be "substituted and synchronized with the program material so as to provide what appears to be an uninterrupted program output".

For example, in preventing "the reproduction into humanly perceivable form" of the 23 seconds of graphic violence in "The Hunt For Red October", there is no alternative 23 second scene that could be carried by line 302 from an alternate program source (APS) (360) and "substituted and synchronized with the

program material so as to provide what appears to be an uninterrupted program output".

The screening device of Olivo cannot in fact provide, a viewer of the "The Hunt For Red October", "what appears to be an uninterrupted program output" that excludes the segment of violence.

It should also be recognized that, by contrast to the teachings of appellant's specification (FIG. 3), Olivo requires the alternate scene to be of the same duration as the one being replaced. That is, to exclude the 23-second segment of violence in the "The Hunt for Red October", Olivo requires an alternative 23-second scene that can be substituted and synchronized. A 20-second alternative scene, for example, would not provides what appears to be an uninterrupted program output.

In the Advisory Action, dated 01/22/96, paper number 27, appellant's "attention is directed to column 3, lines 29-44, wherein the 'substitution of highly rated scenes to a lower rated scenes' is achieved." (page 3, lines 7-9, cited text is hereinabove included.)

Perhaps the Examiner would be kind to point out in which one of the 458 motion pictures, that received an "R" rating during 1995, a "substitution of highly rated scenes to a lower rated scenes is achieved" (i.e. which motion picture is provided with alternative scenes which could be "substituted and synchronized with the program material so as to provide what appears to be an uninterrupted program output").

On reflection it should be appreciated that the production of alternative scenes required by Olivo is, in reality, artistically and economically impractical.

It is noted that, by contrast to the screening device of Olivo, the DigitalVideo player, as per appellant's specification, currently customizes the playing of such readily available motion pictures as "Sliver", "Top Gun", "Wayne's World", "The Firm", etc..

Thus, the results that are made possible by the present invention are patentably distinguished from the results that are possible under Olivo.

As will be further detailed below, the teachings of appellant's specification solves problems that Olivo has failed to recognize. Applicant's invention omits significant elements of the screening device of Olivo while at the same time providing patentably distinguished capability. Olivo fails to anticipate the patentable subject matter that appellant is attempting to claim, and fails to anticipate the outstanding claims. Each of the significant teachings of Olivo teach away from appellant's invention and teach away from each of the outstanding claims.

Before proceeding with a detailed discussion of each of the outstanding claims of the present invention, appellant would like to address the Advisory Action's position that Olivo's failures to anticipate appellant's invention are not the issue (page 3, paragraph c, page 4, paragraph d).

The Examiner has not disputed that the screening device of

Olivo cannot, in fact, "provide what appears to be an uninterrupted program output" of, for example, the motion picture "The Hunt for Red October" that excludes the segment of violence.

It is respectfully submitted that appellant's repeated request under MPEP § 707.07(j) make Olivo's failure to anticipate the present invention the issue.

Appellant's response to the first Office Action included a request of the Examiner to provide constructive assistance under MPEP § 707.07(j), (page 29-30). Appellants response to the final Office Action reiterated the request that the Examiner provide constructive assistance under MPEP § 707.07(j), (page 11).

MPEP § 707.07(j) teaches appellant that:

"When, during the examination of a pro se case, it becomes apparent to the examiner that there is patentable subject matter disclosed in the application, the examiner shall draft one or more claims for the applicant and indicate in his or her action that such claims would be allowed if incorporated in the application by amendment."

"When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction."

The Office Actions in this case have not even had the courtesy to explain why the Examiner could not comply with Appellant's request for assistance in the drafting of claims.

Appellant has only recently learned that normally a failure of the Examiner under MPEP is not a matter taken before the Honorable Board. However, the MPEP repeatedly urges special

considerations in a pro se case.

In addition to the example that MPEP 707.07(j) itself provides, MPEP § 1206 teaches that:

"An exception to the requirement that all the items specified in 37 CFR 1.192(c) be included in the brief is made if the application or reexamination proceeding is being prosecuted by the appellant pro se;"...

It is respectfully submitted that, under the present circumstances, if the Honorable Board finds patentable subject matter disclosed in the application which appellant is attempting to claim, and IF the Honorable Board does not find the outstanding claims entirely suitable, the Honorable Board should return the case to the Examiner with instructions to provide constructive assistance under MPEP § 707.07(j).

It seems that the Honorable Courts of Law have established more than adequate precedents (e.g. admissability of evidence) that urge the Honorable Board to be responsive to the failures of the Examiner under MPEP. It is respectfully submitted that, under the circumstances, were the Honorable Board to sustain the Examiner's rejection of the claims, the Honorable Board would become an accessory to the Examiner's failures under MPEP.

It is respectfully requested that the Honorable Board consider that the principal reason for the protracted prosecution of this case, and why this case is under appeal, is the Examiner's failure to provide constructive assistance as is clearly required by MPEP.

Now, with respect to the issue of whether Olivo anticipates each of the outstanding claims of the present invention.

MPEP § 2131 teaches Appellant that:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e. identity of terminology is not required. In *re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990).

Appellant appreciates that the art of claim drafting is in large measure the ability to condense the teachings of the specifications (in this case FIGS. 1-6, and pages 1-37) into an elegant combination of a handful of sentences.

It is respectfully submitted that, notwithstanding appellant's lack of expertise, the failure of the Examiner to provide constructive assistance, and the expectation that the Honorable Board could do better than appellant, the present invention is claimed in an elegantly simple manner that recites a synergistic combination of novel elements that are not anticipated or rendered obvious by the teachings of Olivo.

As will be detailed below with respect to each of the outstanding claims, it is respectfully submitted that: i) Olivo fails to describe "each and every element" as set forth in each of the claims; ii) Olivo fails to show the "identical invention" in as complete detail as is contained in each of the claims"; and iii) Olivo arranges elements in a manner inconsistent with the synergistic arrangement of elements "required" by each of the claims.

Appellant believes that each of the claims of the present invention are distinguished from each other. Appellant's independent arguments for each of the claims attempt to satisfy the "separately patentable" requirement. Further, Appellant provides arguments that Olivo neither anticipates, § 102(b), nor renders obvious, § 103, the claims.

Accordingly, with respect to claim 73.

In the first Office Action in the Olivo case, dated 04/09/91, paper number 2, the examiner in that case indicated with respect to a cited Konishi reference:

"This patent describes an 'instruction signal' which is 'stored with' the program material signal, obviously in the same 'medium' (the tape), and the 'reproduction control' therein permits the operator to control blocking or 'alteration' of the program material signal at replay."
(page 7, lines 3-7)

In addition to the other references cited by the examiner in the Olivo case, the patents to Vogel, U.S. Patents Numbers 4,930,158 and 4,930,160, cited in appellant's IDS, are also noted as being pertinent.

As it is argued in the amendment in response to the office action by Olivo's attorney, Olivo is distinguished by its teachings of "a program material screening device" that "substitutes alternative program signals" "in response to the presence of a particular material content signal." (page 8, lines 14-18)

It is respectfully submitted that Olivo cannot define over its prior art in the absence of a teaching of alternative program signals. The raison d'être of Olivo is the utilization of an

alternate program signal. Olivo cannot define over its prior art with only "a video".

Claim 73 explicitly recites defining "a plurality of segments in a video" and "a segment map that provides for a variable arrangement of said plurality of segments."

Claim 73 does not recite "defining a plurality of segment in a video and an alternate program signal" and a "segment map that provides for a substitution of segments of said video with segments of said alternate program signal."

The video means of claim 73 are "a video", not "a video and an alternative program signal". Olivo does not anticipate the results or the advantages that claim 73 produces and offers with only "a video".

It is respectfully submitted that on this basis alone the teachings of Olivo do not anticipate claim 73.

On page 3, lines 5-7, the final Office Action, dated 09/08/95, paper number 24, asserts that the system of Olivo includes "mapping means (col. 3, lines 34-44) for producing a segment map that provides for a variable arrangement of the plurality of segments, as specified in claims 73-76. (See Figures 1 and 5)." (The cited text is hereinabove provided.)

It is respectfully submitted that neither FIG. 1 nor FIG. 5 of Olivo show means for producing the segment map of the outstanding claims. It is respectfully requested that the Examiner support its assertion by identifying the mapping means.

By contrast to the Office Action's assertion with respect to

FIGS. 1 and 5, Olivo details with respect to FIG. 3 both:

"recording components 10A and playback components 10B. The recording components 10A function to record program material and an MCS onto a videotape; the playback components (10B) function to detect the recorded program and MCS signals," (column 8, lines 16-21)

Claim 73 is drawn to the means required to produce a segment map. This would broadly correspond to Olivo's recording components 10A. While appellant's specification teaches a variety of devices that utilize the segment map (i.e. 10B), the outstanding claims are not drawn to such devices.

Thus, if the means of claim 73 are anticipated in Olivo, they would be present in, and detailed with respect to FIG. 3, recording components 10A, and specifically encoding circuitry (28).

It is respectfully submitted that the final Office Action, pages 2-3, paragraph 3, forces to extract from Olivo that which Olivo does not teach. The final Office Action fails to specifically identify, for example, what in the encoding circuitry of Olivo anticipates a "mapping means for producing a segment map" of claim 73.

Olivo's "encoding circuitry (28)" for encoding a material content signal (MCS) (column 8, lines 42-58), FIG. 3, does not anticipate "defining means for defining" "a plurality of segments in a video"; "descriptor means for associating at least one descriptor with at least one segment of said plurality of segments"; and "mapping means for producing a segment map that provides for a variable arrangement of said plurality of

segments", as is recited in claim 73.

First, encoding means for "supplementing stored program material with a non-interfering material content signal" cannot anticipate "descriptor means for associating at least one descriptor with at least one segment of said plurality of segments", because a segment (program material) cannot be skipped if the descriptor (for the sake of argument, material content signal) is supplementing the segment (program material) being skipped.

Second, an argument that the encoding circuitry both anticipates descriptor means and defining means renders redundant (i.e. without purpose) the claim's recitation of "defining means for defining" "a plurality of segments in a video".

Clearly, the positively recited defining means provide a functionality that is in addition to what is accomplished with the descriptor means, or what is accomplished with the encoding circuitry of Olivo.

Segments of the video have to be defined in order for the mapping means to be able to produce a segment map. The mapping means of claim 73 cannot produce "a segment map that provides for a variable arrangement of said plurality of segments", if the recited defining means and descriptor means were replaced with Olivo's encoding circuitry for "supplementing the program material signal with a material content signal", (Olivo's claim 1).

Third, Olivo recites, with respect to the material-content-

signal's 8-bit data word, that:

"Data bus 74 consists of eight data lines, and the two most significant bits (D0-D1) form data bus 74A, which controls the video switch 306, and data bus 74B is formed with the six least significant bits (D2 through D7) to control the program substitution elements (either the character generator (305) or the alternate program source (360))." (column 16, lines 42-48)

Olivo explicit teachings of utilizing the bits D2-D7 for controlling the character generator (305) or the alternate program source (360) teaches away from utilizing the bits D2-D7 for providing, if it were possible, for a variable arrangement of the plurality of segments of the video as is recited in claim 73.

Fourth, as indicated previously, it is precisely because Olivo does not anticipate a variable arrangement of the plurality of segments of the video that in a laser disk embodiment Olivo teaches that simultaneously with a "separate pick-up head" retrieving a substitute scene, the "main pick-up head" continues to retrieve the material content signal (column 16, line 68, and column 17, lines 1-5).

The segment mapping means of claim 73 produces results and offers advantages that are not anticipated or rendered obvious by the screening device of Olivo in general, and the encoding circuitry (28) or the material content signal in particular.

Olivo does not expressly or inherently describe each and every element as set forth in claim 73. Olivo does not show the present invention in as complete detail as is contained in claim 73. Olivo arranges elements in a manner inconsistent with the synergistic arrangement of elements required by claims 73.

Further, Olivo does not support a prima facie case of obviousness. There is no suggestion or motivation in Olivo to modify the reference, with a reasonable expectation of success, to teach or suggest all the limitations of claim 73.

Accordingly, it is respectfully submitted to the Honorable Board that the rejection of claim 73 under 35 U.S.C. § 102(b) as being anticipated by Olivo is unwarranted and should be reversed.

Now attention is drawn to each of the balance of the outstanding claims of the present invention.

Where a claim comprises a feature or limitation previously discussed, it is to be understood that the specific discussion of a claim incorporates a discussion of that feature or limitation irrespective of were presented, just as if appellant had elected to copy and paste the appropriate text.

Accordingly, with respect to claim 74.

Claim 74 is separately patentably from claim 73 with respect to an additional novel distinguishing feature. The discussion with respect to claim 74 will also serve to further show how the subject matter being generally claimed is patentably distinguished from Olivo.

Specifically, claim 74 recites in part:

"defining means for defining, responsive to at least one preestablished content category, a plurality of segments in a video, said plurality of segments including at least one parallel segment;"

It is emphasized that claim 74 does not recite "defining segments of a video and a series of alternative scenes from an alternate program source". Claim 74 is patentably distinguished

from both claim 73 and Olivo precisely because the "video" itself includes at least one parallel segment.

The specification of the present invention teaches that:

"It should be noted that any given idea or scene may be expressed in a variety of forms, whether implied as in the closing of a bedroom door, to the graphic treatment as might be found in an "X" rated film. Both of these versions may be provided as parallel segments in a program," (page 18, lines 4-8, emphasis added)

To demonstrate the capability of a Digital Video player as per the teachings of appellant's specification, an eight-minute motion picture titled "Control" was produced. The single video stream (one MPEG file) of "Control" comprises a set of three mutually exclusive consecutively arranged parallel segments. In other words, it would not make sense to play "Control" in a conventional linear manner.

Olivo explicitly teaches that:

"FIG. 2A, 2B and 2C show the three possible configurations that home playback equipment can take in light of the present invention."... "In FIG. 2A, the owner/operator has selected to receive all program material signals"... "FIG. 2B depicts a situation in which the playback device owner/operator has elected not to replay certain program material, and accordingly has set the screening device (9) so that the recognition means (R) is engaged with the execution means (E). Upon reception by the screening device (9) of the material content signal (4), replay of the program material signal (2) by the playback device (11) is prevented or altered (shown at 15)."... "FIG. 2C depicts the situation in which the playback device (11) is not equipped with a screening device"... (column 7, lines 2-61, emphasis added)

The first and third configurations (FIG. 2A and FIG. 2C) would simply cause a video to be played in its entirety.

Thus, the first or third "possible" configurations of Olivo's screening device are not in fact "possible" in the

playing of a video that includes at least one parallel segment. Olivo explicitly and repeatedly teaches an alternate program source.

Further, even the second "possible" configuration of Olivo, where the device is actively screening, isn't in fact possible in the playing of a video that includes at least one parallel segment.

For example, let us say that a video comprises one parallel segment, and that in that set of segments, a segment is associated with a "R" rating, and that the corresponding parallel segment is associated with a "PG-13" rating. Let us also say a first viewer of that video does not object to the viewing of "R" rated content, and that, separately, a second viewer does object to the viewing of "R" rated content. Clearly, the screening device of Olivo cannot produce acceptable results for either viewer.

By contrast, the segment map of claim 74, by design (FIG. 3), provides for the proper processing of parallel segments in a video:

"The segment selected for viewing (a rating level equal to or next lowest rating) provides the next segment beginning frame information. This will skip over parallel segments of a lower rating than the viewed segment." (page 22, lines 13-16)

The video of claim 74 is conceptually and structurally distinguished from the linear motion picture architecture inherent in Olivo. For a variety of reasons, only some of which are explained herein, Olivo cannot, and does not, anticipate or

renders obvious a video including at least one parallel segment. Olivo teaches away from claim 74.

It is respectfully submitted that Olivo neither anticipates nor renders obvious the productive synergy of: "said plurality of segments including at least one parallel segment", and "mapping means for producing a segment map that provides for a variable arrangement of said plurality of segments."

The segment map of claim 74 produces results and offers advantages that are not anticipated or rendered obvious by Olivo.

Olivo does not expressly or inherently describe each and every element as set forth in claim 74. Olivo does not show the present invention in as complete detail as is contained in claim 74. Olivo arranges elements in a manner inconsistent with the synergistic arrangement of elements required by claims 74.

Further, Olivo does not support a prima facie case of obviousness. There is no suggestion or motivation in Olivo to modify the reference, with a reasonable expectation of success, to teach or suggest all the limitations of claim 74.

Accordingly, it is respectfully submitted to the Honorable Board that the rejection of claim 74 under 35 U.S.C. § 102(b) as being anticipated by Olivo is unwarranted and should be reversed.

Method claims 75 and 76 are separately patentable from the respective means claims 73 and 74, in that claims 75 and 76 recite a methodology comprising specific steps. The steps being independent of any specific means that may be required to carry them out.

Claim one of Olivo, "a method for selectively screening program material", identifies the significant step in the teachings of Olivo: "supplementing the program material signal with a material content signal".

On the basis of the arguments hereinabove presented, it is respectfully submitted that the step of "supplementing the program material signal with a material content signal" neither anticipates nor renders obvious the steps of "defining"... "a plurality of segments in a video;" "associating at least one descriptor with at least one segment of said plurality of segments"; and "producing a segment map that provides for a variable arrangement of said plurality of segments", as is recited in claim 75.

Olivo does not expressly or inherently describe each and every step as set forth in claim 75. Olivo does not show the present invention in as complete detail as is contained in claim 75. Olivo's steps are inconsistent with the synergistic arrangement of steps required by claims 75.

Further, Olivo does not support a prima facie case of obviousness. There is no suggestion or motivation in Olivo to modify the reference, with a reasonable expectation of success, to teach or suggest all the limitations of claim 75.

Accordingly, it is respectfully submitted to the Honorable Board that the rejection of claim 75 under 35 U.S.C. § 102(b) as being anticipated by Olivo is unwarranted and should be reversed.

Claim 76 is separately patentable from claim 75 with respect

to an additional novel distinguishing step.

Specifically, claim 76 recites in part:

"defining"... "a plurality of segments in a video, said plurality of segments including at least one parallel segment;"

On the basis of the arguments hereinabove presented, it is respectfully submitted that the step of "supplementing the program material signal with a material content signal" neither anticipates nor renders obvious the steps of "defining"... "a plurality of segments in a video, said plurality of segments including at least one parallel segment;" "associating at least one descriptor with at least one segment of said plurality of segments"; and "producing a segment map that provides for a variable arrangement of said plurality of segments", as is recited in claim 76.

Olivo does not expressly or inherently describe each and every step as set forth in claim 76. Olivo does not show the present invention in as complete detail as is contained in claim 76. Olivo's steps are inconsistent with the synergistic arrangement of steps required by claims 76.

Further, Olivo does not support a prima facie case of obviousness. There is no suggestion or motivation in Olivo to modify the reference, with a reasonable expectation of success, to teach or suggest all the limitations of claim 76.

Accordingly, it is respectfully submitted to the Honorable Board that the rejection of claim 76 under 35 U.S.C. § 102(b) as being anticipated by Olivo is unwarranted and should be reversed.

By the above remarks, appellant has attempted to diligently respond to each of the significant issues raised by the final Office Action and the Advisory Action ("Actions"). If a particular assertion or remark in the Actions is deemed not to be directly or indirectly addressed, it should not be interpreted as indicating that appellant is in agreement with such an assertion or remark.

The remarks herein presented have been drafted to specifically respond to the Actions. For purposes of presentation, the remarks have been presented in as simple a manner as possible, and do not embody the complexity, richness, or breadth of the specification of the present invention.

Attention has been drawn to some but not all of the patentably distinguishing features, results, and advantages of the present invention over the applied art. Accordingly the teachings of the specification are incorporated herein by reference.

Nothing herein should be construed, interpreted, or understood as limiting, or otherwise constraining the specification of the present application or the scope of the claims.

The Appendix, which includes a copy of the claims, follows.

(9) Appendix.

The claims listed below are a copy of the pending claims 73-76 before the Honorable Board of Patent Appeals and Interferences.

-- 73. A video editing system, comprising:

defining means for defining, responsive to at least one preestablished content category, a plurality of segments in a video;

descriptor means for associating at least one descriptor with at least one segment of said plurality of segments, said at least one descriptor being responsive to said at least one preestablished content category; and

mapping means for producing a segment map that provides for a variable arrangement of said plurality of segments.

74. A video editing system, comprising:

defining means for defining, responsive to at least one preestablished content category, a plurality of segments in a video, said plurality of segments including at least one parallel segment;

descriptor means for associating at least one descriptor with at least one segment of said plurality of segments, said at least one descriptor being responsive to said at least one preestablished content category; and

mapping means for producing a segment map that provides for a variable arrangement of said plurality of segments.

75. A method of editing a video, comprising the steps of:
defining, responsive to at least one preestablished content category, a plurality of segments in a video;

associating at least one descriptor with at least one segment of said plurality of segments, said at least one descriptor being responsive to said at least one preestablished content category; and

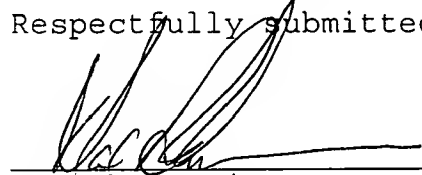
producing a segment map that provides for a variable arrangement of said plurality of segments.

76. A method of editing a video, comprising the steps of:
defining, responsive to at least one preestablished content category, a plurality of segments in a video, said plurality of segments including at least one parallel segment;

associating at least one descriptor with at least one segment of said plurality of segments, said at least one descriptor being responsive to said at least one preestablished content category; and

producing a segment map that provides for a variable arrangement of said plurality of segments. --

Respectfully submitted,

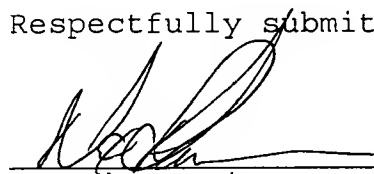

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I hereby certify that this amended appeal brief is being deposited with the United States Postal Service using certified first class mail in the date indicated above and is addressed to Commissioner of Patents and Trademarks, Washington, DC 20231.

Respectfully submitted,


Max Abecassis
Appellant and Person Mailing Papers